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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,717	03/27/2000	Pankaj K. Jha	0325.00344	4069

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CHRISTOPHER P. MAIORANA, P.C.  
24025 GREATER MACK  
SUITE 200  
ST. CLAIR SHORES, MI 48080

EXAMINER

KWOH, JASPER C

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/535,717

Applicant(s)

JHA, PANKAJ K.

Examiner

Jasper Kwoh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4,5.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. Figures 1-5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Double Patenting***

3. Applicant is advised that should claims 2 and 18 be found allowable, claims 2 and 18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

4. Applicant is advised that should claims 4 and 19 be found allowable, claims 4 and 19 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after

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allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

5. Applicant is advised that should claims 6 and 20 be found allowable, claims 6 and 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-15 and 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a data structure. It is not a process, machine, manufacture, or composition of matter, or any improvements thereof.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-4, 6-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Doshi et al.

Regarding claim 1, Doshi et al. discloses a packet comprising a header error portion and a payload error portion (i.e. fig. 3, Header Error CRC and FCS).

Regarding claims 2-3 and 18, Doshi et al. discloses the network comprises a SONET SDH fiber optic network (i.e. page 1298, col. 2, ll. 21-25, SDL is mapped over SONET/SDH).

Regarding claims 4 and 19, Doshi et al. discloses the header error portion stores error check of header section (i.e. figure 3, Header Error CRC) and payload error portion stores error check of a payload area (i.e. figure 3, FCS).

Regarding claims 6 and 20, it is inherent to discard information that contains errors because it is useless.

Regarding claims 7-9, Doshi et al. discloses node determine a header error (i.e. page 1298, col. 1, Hunt State looks for SDL header error); layer 2 and layer 3 address (page 1297, col. 1, Information field could be IP which inherently includes layer 3 address and Ethernet which inherently includes layer 2 address); and a data identifier (i.e. fig. 3, Protocol Type).

Regarding claim 10, Doshi et al. discloses a data payload (i.e. figure 2, SDL payload)

Regarding claim 11, Doshi et al. discloses an address portion (i.e. figure 3, Address).

Regarding claim 12, Doshi et al discloses a control word to control the packet (i.e. figure 3, Control).

Regarding claim 13, Doshi et al. discloses an identity to identify destination (i.e. figure 3, Address).

Regarding claims 14-15, Doshi et al. discloses a label portion (i.e. page 1296, col. 1, ll. 14-16, MPLS).

Regarding claim 16 and 17, Doshi et al. discloses an apparatus and method comprising receiving packets at nodes (i.e. page 1297, col. 2, SDL operation, state machine for the receiver) and transmitting packets at nodes (inherent that the packet has to be transmitted in order to communicate with destination) wherein each packet comprises a header error portion and a payload error portion (i.e. fig. 3, Header Error CRC and FCS).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al. in view of Bergman et al (US006442694B1).

Doshi et al. does not specifically disclose that an upstream node transmits the packet and downstream node identifies the faulty upstream node. However, Bergman et al. teach that an upstream node transmits the packet and downstream node identifies the faulty upstream node (i.e. fig. 6, 52, node transmit to downstream node an alarm). Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include an upstream node transmits the packet and downstream node identify the faulty upstream node as taught by Bergman et al. with the packet of Doshi et al. in order to correctly localize the source of an attack or fault so the amount of traffic lost can be reduced.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasper Kwoh whose telephone number is (703) 305-0101. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703)308-5340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



JK  
July 14, 2003

Jasper Kwoh  
Examiner  
Art Unit 2663



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600